

**The World Bank**

Kenya Infrastructure Finance/PPP project (P121019)

Implementation Status & Results Report**Kenya Infrastructure Finance/PPP project (P121019)**

AFRICA | Kenya | Finance & Markets Global Practice |
 IBRD/IDA | Investment Project Financing | FY 2013 | Seq No: 10 | ARCHIVED on 02-Jan-2018 | ISR30535 |

Implementing Agencies: MINISTRY OF FINANCE, National Treasury PPP Unit

Key Dates**Key Project Dates**

Bank Approval Date:15-Nov-2012

Effectiveness Date:11-Feb-2013

Planned Mid Term Review Date:30-May-2015

Actual Mid-Term Review Date:18-May-2015

Original Closing Date:31-Dec-2016

Revised Closing Date:31-Oct-2022

Project Development Objectives

Project Development Objective (from Project Appraisal Document)

The overall objective of this two-phased Adaptable Lending Program (APL) Program is to increase private investment in the Kenya infrastructure market across sectors and to sustain this participation over an extended period of time. This involves three key areas of development: (i) enabling environment; (ii) pipeline; (iii) financing. The specific objective of the APL 1 project is to improve the enabling environment to generate a pipeline of bankable Public-Private Partnership (PPP) projects.

Has the Project Development Objective been changed since Board Approval of the Project Objective?

Yes

Board Approved Revised Project Development Objective (If project is formally restructured)

The overall objective of this project is to increase private investment in the Kenya infrastructure market across sectors and to sustain this participation over an extended period of time.

Components

Name

Technical Support to PPP Institutions for PPP Legal, Regulatory and PPP Financing Environment:(Cost \$11.50 M)

Support for Preparation of Individual PPPs:(Cost \$20.00 M)

Improvements to Fiscal Risk Management Framework:(Cost \$5.00 M)

Support for Program Management:(Cost \$3.50 M)

AF Component 1: Support to Institutional Strengthening:(Cost \$10.00 M)

AF Component 2: Support to Project Preparation and Procurement:(Cost \$37.00 M)

AF Component 3: Support to Project Management:(Cost \$3.00 M)



Overall Ratings

Name	Previous Rating	Current Rating
Progress towards achievement of PDO	● Satisfactory	● Satisfactory
Overall Implementation Progress (IP)	● Satisfactory	● Satisfactory
Overall Risk Rating	● Moderate	● Moderate

Implementation Status and Key Decisions

The status of the specific components and sub-components under IFPPP is:

Component 1 Institutional Support and Regulatory Reform

Subcomponent 1A – Support to PPP Institutions

The objectives of this sub-component are to support the establishment and functioning of a PPP Unit at the National Treasury as well as PPP Nodes in relevant line Ministries and other contracting authorities (CAs). Institutional and technical PPP capacity will be built among GOK stakeholders to implement the Kenya PPP program through capacity building, technical assistance and communications activities. Expected outcomes are a fully staffed and functional PPP Unit, PPP Nodes, and a deeper understanding and increased support for PPP programs amongst stakeholders from both the public and private sector.

Progress, Current Status & Issues

PPP Unit Staffing: The GOK has increased the number of internal staff with the addition of one Senior Deputy Director, one Deputy Director and other technical staff. However, since the current expertise will not be sufficient given the growth in the PPP pipeline, and increased demand for support from the county governments, the TORs for the recruitment of additional government staff and external consultants is under development by the PPP Unit.

Public Awareness and Communications: In furtherance of their PPP awareness creation mandate, the PPP Unit has conducted a number of sensitization workshops with various stakeholders e.g. a capacity building workshop with the Ministry of Transport, Infrastructure, Urban Development and Housing on September 12, 2017; and an engagement with Road PPPs lenders on September 20, 2017. To reach a wider audience, the PPPU engaged a PR firm to update and maintain their official website. The updated site is currently being populated and tested before the planned launch in early 2018.

In parallel, under a separate but related project, the World Bank and the PPPU are jointly conducting a series of engagement sessions with the Fund Managers Association (FMA) and financial institutions in Kenya to sensitize them about the features of PPP, long-term financing needs of PPP, government commitment to the PPP program in Kenya and other relevant topics. The fifth session, which focused on the various forms of structuring an infrastructure debt fund in Kenya, was held on December 7, 2017.

PPP Nodes Support and Capacity Building: Participation of staff of the national government ministries in training workshops and investment conferences continued over the current ISR period, with a number of officials provided the opportunity to attend prestigious training programs relevant to PPP and project finance. To create a sustainable solution towards meeting this goal, the PPP Unit is looking into: (i) the preparation of PPP training curriculum and study materials; and, (ii) possible collaboration with universities for dissemination of said material.

Subcomponent 1B – Legal and Regulatory Reform

The objective of this sub-component is to support a robust legal and regulatory framework for implementing PPP transactions and projects at national and sub-national level. The adoption of the PPP Act, including preparation and adoption of national and sub-national PPP regulations and procedures and their effective implementation, forms the basis of achievement of this component.

Progress, Current Status & Issues

Public Private Partnerships (Amendment) Bill, 2016: Based on the substantial time-cost delays being experienced in processing of projects under the PPP Act, 2013, the PPP Unit has proposed to introduce some amendments to the Act through the Finance Bill (2016). Adopted by the National Assembly in December 2016, the PPP (Amendment) Bill, 2016 is currently pending enactment by the Senate. The amendments aim to: (i) clarify PPP implementation by county governments by amending the definition of a contracting authority by splitting it between national and county government authorities; (ii) create sustainable frameworks for contracting of contingent liabilities by county governments. It is upon (i) and (ii) that the pending County Regulations can be issued; (iii) make changes to the PPP process for easier administration and faster turn-around times; and, (iv) separate the policy, procurement and administrative mandates of the regulatory institutions under the Act. The envisaged effect of these proposed amendments is to



improve the environment for undertaking PPPs in the country.

Draft PPP (Petition) Regulations, 2017: Drafted with the intention of replacing the PPP Petition Guidelines of 2014, these regulations aim to govern the process by which a bidder may file a petition, in relation to the process of tendering for, or entering into a project agreement under the PPP Act, with the Petition Committee.

Draft Public Finance Management (National Toll Fund) Regulations: Motivated by the adoption of the National Tolling Policy in November 2016, and the launch of tender processes for the proposed Nairobi-Nakuru-Mau Summit Toll Road Project, in April, 2017, a retreat was convened by the PPP Unit with the objective of developing the framework and principles for the drafting of a set of regulations to create a fund into which toll revenue can be paid, once the proposed PPP toll roads are developed and operational. A first draft of the regulations has been prepared and is now under revision before being shared out, in the coming weeks, with the wider stakeholders, including the four prequalified bidders for the Nairobi – Nakuru – Mau Summit PPP Toll Road project.

Kenya Roads Bill Reform: The aforementioned proposed toll fund regulations are aimed at addressing a small part of the wider law reform and legal development requirements to support private capital mobilization into the road sector. Wider, more substantive sector law reform measures are being separately pursued by the PPPU and the road agencies via the draft Roads Bill. The proposed amendments aim to incorporate the implementation of the approved Toll Policy and are scheduled to be tabled in the parliament for approval early next year.

Subcomponent 1C – Legal Institutional Development for Financial Products for PPPs

The objective of this sub-component is on the one hand, to develop the framework for a Project Facilitation Fund (PFF) for specific financing instruments, such as Viability Gap Financing (VGF), guarantees, infrastructure funds, financial intermediary lending facilities, and on the other hand to support the development of local capital markets which create the enabling environment for long term finance in local currency. The key expected outcomes are (i) establishment of a Project Facilitation Fund (PFF), as required under the PPP Act, (ii) approved amendments to the Capital Markets Authority Bill and the Securities and Investment Bills, and (iii) regular issuance of Government benchmark bonds in medium and long-term maturities up to 7/10-year tenures.

Progress, Current Status & Issues

Project Facilitation Fund: The PFF Regulations were gazetted on May 12, 2017. Under next steps as provided in the regulations, the PPPU will establish the fund with seed funding provided through budgetary provisions.

Capital markets: Capital markets policy issues have been transferred to the Financial Sector Support Project (FSSP).

Component 2: PPP Pipeline Preparation

This sub-component aims to build on the foundation of Component 1 and prepare PPP transactions for market. This is achieved through a combination of sector specialist advice to the PPP Unit and the sectors, the development of sector strategies and the funding of feasibility studies and transaction advice for viable projects.

Progress, Current Status & Issues

Transaction Advisory Services:

Roads: Road projects have shown substantial progress since the last ISR. Evaluation of Request for Qualifications (RFQ) was completed for the Nairobi-Nakuru-Mau Summit Toll Road Project wherein four firms/consortia were shortlisted and issued with the RFP on 5th July 2017. As part of the bidding process, separate one-on-one Competitive Dialogue (CD) meetings were had with each of the bidders between November 21 – December 1, 2017 with the aim of discussing the technical, financial, key risk allocation and legal aspects of the project with prequalified bidders in advance of their finalizing bid documentation and inviting bids. On July 19, 2017, the Kenya Urban Roads Authority (KURA) released a Request for Qualification (RFQ) notice inviting competent local and international firms/consortia to pre-qualify and bid for the design, finance, construct, operate, maintain and hand over of the 2nd Nyali Bridge under a PPP arrangement. On September 26, 2017, KURA, with the support of its Transaction Advisor's Deloitte, conducted a pre-qualification conference to clarify the bidding process and any parts of the RFQ that may have been unclear. Following the bid submission deadline of November 9, 2017, evaluations for the 2nd Nyali Bridge responses have been concluded and the communication of the results of the shortlisting exercise is set before end December 2017.

Toll Operator procurement: Kenya's five first mover road PPPs (Nairobi-Nakuru-Mau Summit, Nairobi-Thika, Southern Bypass, Nairobi-Mombasa and 2nd Nyali Bridge) have all been identified as candidates for tolling. The shortlisting exercise of hiring a transaction advisor to procure a tolling operator who will purchase, install, roll out, finance, operate and maintain an integrated and inter-operable tolling system across all of the five road PPPs, to a schedule consistent with the development and entry into commercial operation of these roads and sections thereof, is ongoing.

Informally, we were informed that the toll operator could be selected within the next 15-18 months if all activities go as planned. However, no firm dates were provided. It was also acknowledged that the selection of the toll operator would be vital for the firming up of the construction plans of the main road project as there would be a need for integrating the design of toll collection modalities in the highway design.

Roads Annuity Program: Under the Phase 1 - Roads 10,000 Annuity Programme, commercial close has been attained for Lot 3, Lot 15, Lot 18 and Lot



33, while contract negotiation is ongoing for Lots 1, 8, 12, 20 and 32, while lot 6 was re-tendered and the RFQ evaluation is being finalized.

Student Accommodation Hostels: On December 11, 2017, Request for qualification (RFQ) for three (3) of the planned five (5) public universities were released to the market, inviting applications from interested parties to bid for the design, finance, construct, operate, maintain and transfer of approximately 24,400 student accommodation hostels i.e.: (i) Moi University's 11,000 bed-capacity student hostel at their main campus and additional 4,000 at the Law campus; (ii) 5,400 bed-capacity student hostel at South Eastern Kenya University (SEKU) main campus; and, (iii) 4,000 student hostel accommodation facility at University of Embu. As part of the project structure, each transaction will involve the provision of bulk infrastructure and associated facilities. The bid submission period is set to close on February 28, 2018.

Energy: PPAs have been signed for the Lamu power plant. Transaction advisors have been appointed to undertake feasibility studies for the Geothermal Olkaria VI, Menengai Phase 2 and 3 and several other projects.

Ports: In the port sector, transaction advisors have been appointed to undertake feasibility studies for the Shimoni port. Feasibility study reports have been finalized for the Kisumu seaport.

Health: In the health sector, negotiations with the preferred consultancy firm is ongoing for the 300-Bed Private Hospital for possible commencement of the assignment in January 2018. Feasibility study is near completion for the National Cancer Management Centers.

County projects: Feasibility studies are near completion for the proposed: (i) Nakuru Integrated Solid Waste Management project; (ii) Murang'a town/Mukuyu water supply PPP project; (iii) Nanyuki Bulk Water supply project; (iv) the Regional Cancer Care Centre PPP project; and, (v) the affordable housing project in Naivasha, Nakuru County.

While there is substantial progress, it will be important for the PPPU to take steps to speed up progress on projects that have moved at a slower pace. For example, the Government has been reviewing options for implementing the Nairobi-Mombasa Highway for some time now following completion of feasibility study. The Kenyatta University students hostel projects has not closed financially for an extended period despite having achieved commercial close.

Component 3: Development of Institutional and regulatory framework for assessment, monitoring, managing, reporting and disclosure of Fiscal Commitment and Contingent Liability (FCCL) associated with PPPs

This component consists of improvement to the Fiscal Commitments and Contingent Liability (FCCL) Risk Management Framework of the National Treasury vis-à-vis PPP projects.

Progress, Current Status & Issues

FCCL Guidelines: For the past two fiscal years, the National Treasury has been assessing its PPP projects for fiscal commitments and contingent liabilities and publishing its Fiscal Risk Statements as an annex in its Budget Policy Statement covering the various sources of fiscal risks in the country, in particular - macro risks and Contingent Liabilities (CL). On the PPP CLs, the Fiscal Risk Statement provides a qualitative assessment and proposed mitigation measures. However, the Public Debt Management Office (PDMO) has been facing challenges in using probabilistic analysis for assessing its FCCL given lack of data primarily and to a lesser extent lack of sufficient capacity.

Given the above background, a new modified methodology for assessing FCCL is being facilitated by the World Bank and PPPU for adoption by the PDMO with the general agreement that the new methodology appeared better suited to the Kenyan situation given the paucity of information to use probabilistic analysis (using Monte Carlo) alone. The model for assessing projects has been firmed up. The FCCL assessment will be first undertaken at the feasibility stage but given the changes during structuring the assessment will be updated prior to RFP and following negotiations with the preferred bidder. The existing technical manual is being updated with the new methodology and a review of the FCCL Guidelines 2015 is being undertaken. On FCCL disclosure, appropriate formats for portfolio wise and project wise disclosures will be developed and checked for incorporation into the disclosure framework for PPPs currently being developed. A sensitization program on the FCCL methodology will be held in January 2018 and will include a high-level training workshop for policy makers, cabinet secretaries and principal secretaries; wider locally based training of PDMO and CAs; and special sensitization workshops for Kenya Power given the existing and growing pipeline of IPP projects. The timelines and progress on various milestones for the FCCL work are in **table 3** below.

Table 2: Milestones and Achievement on Assessment of FCCL

Milestone	Timeline
FCCL Assessment: <ul style="list-style-type: none"> • FCCL Excel Model with 17 projects • Manual of the Model • Summary file with methodologies to estimate FCCL • Presentation for Training with portfolio of projects 	December 2017



<ul style="list-style-type: none"> IPSAS training material Stochastic Analysis Excel Model Termination Payment Excel Model 	
FCCL assessment of IPP ongoing pipeline and the Roads Annuity Program	December 2017
Updating of FCCL Guidelines 2015: <ul style="list-style-type: none"> Fiscal Planning Tool /Guidelines Fiscal Planning Tool Excel Model Guideline for including FCCL in budget and policy making Reporting and Disclosure Guidelines 	January 15, 2018
High-level training workshop for policy makers, cabinet secretaries and permanent secretaries	January 15, 2018
Locally based training of PDMO and CAs	March 2018
Special sensitization workshops for KPLC	March 2018
Approval of revised FCCL Guidelines by the PPP Committee	April 2018

Component 4: Support for Program Management

A Project Implementation Unit (PIU) was established within the PPPU in the National Treasury. The PIU provides the procurement, fiduciary, safeguards and monitoring and evaluation expertise required for the implementation of the IFPPP project.

Risks

Systematic Operations Risk-rating Tool

Risk Category	Rating at Approval	Previous Rating	Current Rating
Political and Governance	--	🟡 Moderate	🟡 Moderate
Macroeconomic	--	🟡 Moderate	🟡 Moderate
Sector Strategies and Policies	--	🟢 Low	🟢 Low
Technical Design of Project or Program	--	🟡 Moderate	🟡 Moderate
Institutional Capacity for Implementation and Sustainability	--	🟡 Moderate	🟡 Moderate
Fiduciary	--	🟡 Moderate	🟡 Moderate
Environment and Social	--	🔴 High	🟡 Substantial
Stakeholders	--	🟡 Moderate	🟡 Moderate
Other	--	🟡 Moderate	🟡 Moderate
Overall	--	🟡 Moderate	🟡 Moderate

Results

Project Development Objective Indicators



► Expression of Interests (EOIs) issued to prospective sponsors for three targeted PPP transactions (Number, Custom)

	Baseline	Actual (Previous)	Actual (Current)	End Target
Value	0.00	1.00	12.00	3.00
Date	31-Dec-2012	12-Dec-2016	29-Dec-2017	31-Dec-2017

► PPP Regulations associated with the new Law agreed to with MoF (Yes/No, Custom)

	Baseline	Actual (Previous)	Actual (Current)	End Target
Value	N	Y	Y	Y
Date	31-Dec-2012	12-Dec-2016	29-Dec-2017	31-Dec-2017

► PPP Fiscal Commitment and Contingent Liability Framework operationalized as measured by: upstream DMO due diligence on prospective (feasibility stage) transactions completed in line with Law (Yes/No, Custom)

	Baseline	Actual (Previous)	Actual (Current)	End Target
Value	N	N	N	Y
Date	31-Dec-2012	12-Dec-2016	29-Dec-2017	31-Dec-2017

► No. of PPP Projects that reached financial close (Number, Custom)

	Baseline	Actual (Previous)	Actual (Current)	End Target
Value	0.00	0.00	0.00	3.00
Date	18-Jan-2017	18-Jan-2017	29-Dec-2017	31-Oct-2022

► Regular issuance of Government benchmark bonds in medium and long term maturities up to 7/10 year tenures (Number, custom) (Yes/No, Custom)

	Baseline	Actual (Previous)	Actual (Current)	End Target
Value	N	Y	Y	Y



Date	31-Dec-2012	12-Dec-2016	29-Dec-2017	31-Dec-2017
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Overall Comments

Some targets were not realized by the End target date of 31 December 2017. The task team had foreseen this and hence the extension of project closing date and Additional Financing

Intermediate Results Indicators

- ▶ Five feasibility studies completed and submission by contracting authorities to the PPP Committee acceptable to the Association, including Safeguards; ready for market entry (Number, Custom)

	Baseline	Actual (Previous)	Actual (Current)	End Target
Value	0.00	10.00	18.00	5.00
Date	31-Dec-2012	12-Dec-2016	29-Dec-2017	31-Dec-2017

- ▶ Line Ministries and Agencies ?Nodes? for First Mover Transactions established and operational (Number, Custom)

	Baseline	Actual (Previous)	Actual (Current)	End Target
Value	0.00	57.00	59.00	2.00
Date	31-Dec-2012	12-Dec-2016	29-Dec-2017	31-Dec-2017

- ▶ PPP Training Curriculum Developed and Implemented (Text, Custom)

	Baseline	Actual (Previous)	Actual (Current)	End Target
Value	No Curriculum	--	No Curriculum	Curriculum developed and approved, implementation of curriculum commenced
Date	18-Jan-2017	18-Jan-2017	29-Dec-2017	31-Oct-2022



► PPP FCCL approved by National Treasury Cabinet Secretary (Text, Custom)

	Baseline	Actual (Previous)	Actual (Current)	End Target
Value	No	In progress	In progress	Yes
Date	31-Dec-2012	12-Dec-2016	29-Dec-2017	31-Dec-2017

► No. of Government officials with PPP certification from recognized institutions* (Number, Custom)

	Baseline	Actual (Previous)	Actual (Current)	End Target
Value	10.00	10.00	10.00	50.00
Date	18-Jan-2017	18-Jan-2017	29-Dec-2017	31-Oct-2022

► Capital Markets Authority Bill 2011 approved by Cabinet for submission to Parliament (Yes/No, Custom)

	Baseline	Actual (Previous)	Actual (Current)	End Target
Value	N	Y	N	Y
Date	31-Dec-2012	12-Dec-2016	29-Dec-2017	31-Dec-2017



► No. of Feasibility Studies approved by the PPP Committee (Number, Custom)

	Baseline	Actual (Previous)	Actual (Current)	End Target
Value	10.00	10.00	18.00	10.00
Date	18-Jan-2017	18-Jan-2017	29-Dec-2017	31-Oct-2022

► Securities and Investments Bill 2011 approved by Cabinet for submission to Parliament (Yes/No, Custom)

	Baseline	Actual (Previous)	Actual (Current)	End Target
Value	N	Y	N	Y
Date	31-Dec-2012	12-Dec-2016	29-Dec-2017	31-Dec-2017

► No. of EOIs/RFQ/RFP issued to prospective PPP private partners (Number, Custom)

	Baseline	Actual (Previous)	Actual (Current)	End Target
Value	8.00	8.00	12.00	20.00
Date	18-Jan-2017	18-Jan-2017	29-Dec-2017	31-Oct-2022

► Report drafted on project stakeholder engagement survey (Yes/No, Custom)

	Baseline	Actual (Previous)	Actual (Current)	End Target
Value	N	N	N	Y
Date	18-Jan-2017	18-Jan-2017	29-Dec-2017	31-Oct-2022

Overall Comments



Data on Financial Performance

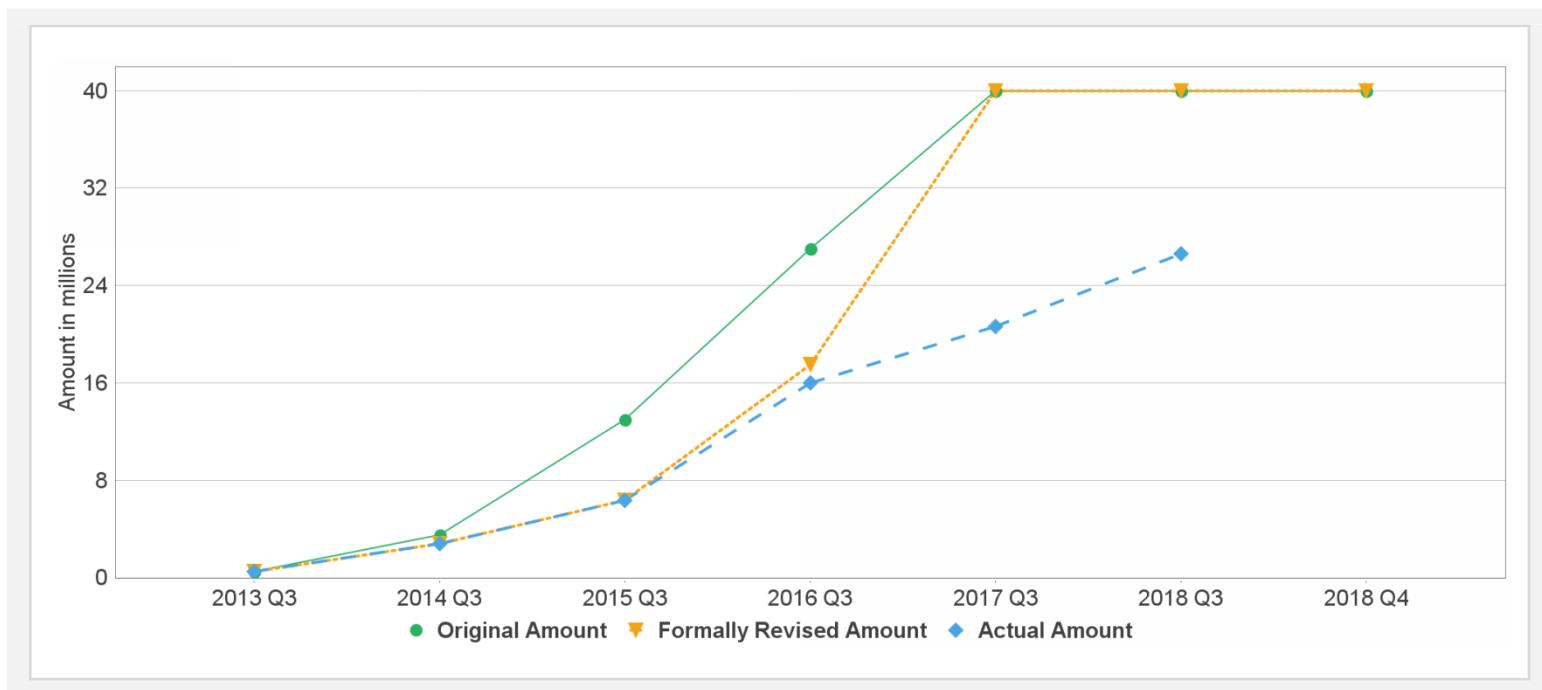
Disbursements (by loan)

Project	Loan/Credit/TF	Status	Currency	Original	Revised	Cancelled	Disbursed	Undisbursed	Disbursed
P121019	IDA-51570	Effective	USD	40.00	40.00	0.00	26.62	10.60	<div style="width: 67%; background-color: #2e7131;"></div> 67%
P121019	IDA-61210	Not Effective	USD	50.00	50.00	0.00	0.00	54.59	0%

Key Dates (by loan)

Project	Loan/Credit/TF	Status	Approval Date	Signing Date	Effectiveness Date	Orig. Closing Date	Rev. Closing Date
P121019	IDA-51570	Effective	15-Nov-2012	05-Dec-2012	11-Feb-2013	31-Dec-2016	31-Oct-2022
P121019	IDA-61210	Not Effective	05-Jul-2017	07-Aug-2017	--	31-Oct-2022	31-Oct-2022

Cumulative Disbursements



Restructuring History

Level 2 Approved on 24-Jun-2015



Related Project(s)

P162182-Kenya Infrastructure Finance Public Private Partnership Additional Financing Project